

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

Alan R. Vaughn,

Civil No. 05-152 (DWF/RLE)

Plaintiff,

v.

**ORDER**

Richard Swatek; Curtis D. Foss;  
VFW Quartermaster Myron Choquette;  
Merchants Bank, N.A.; Martha Grimes;  
Koochiching County Attorney Jennifer  
Hasbargen; Koochiching County Court  
Administrator Carol Clausen; Ninth  
Judicial District Court Judge Charles H.  
LeDuc; Ninth Judicial District Court  
Judge Donald J. Aandal; Ninth Judicial  
District Court Judge Donna K. Dixon;  
and Ninth Judicial District Court Judge  
John P. Smith,

Defendants.

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Alan R. Vaughn, *Pro Se*, Plaintiff.

Kenneth A. Kimber, Esq., Hanft Fride PA, counsel for Defendant Richard Swatek; Amy K. Amundson, Esq., and Peter D. Gray, Esq., Rider Bennett LLP, counsel for Defendant Myron Choquet; Anna M. Burgett, Esq., and Lawrence A. Wilford, Esq., Wilford & Geske, PA, counsel for Defendant Merchants Bank, NA; Stephen G. Andersen, Esq., Ratwik Roszak & Maloney, PA, counsel for Defendant Jennifer Hasbargen; John S. Garry, Assistant Attorney General, Minnesota Attorney General's Office, counsel for Defendants Carol Clauson,

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This matter is before the Court upon Plaintiff's objections to Chief Magistrate Judge

Raymond L. Erickson's Report and Recommendation dated December 7, 2005, recommending that:

(1) the Motion of the Defendant Jennifer Hasbargen to Dismiss be granted; (2) the Motions of the Defendants Charles H. LeDuc, Donald J. Aandal, Donna K. Dixon, John P. Smith, and Carol Clausen to Dismiss be granted; (3) the Motion of Defendant Myron Choquette to Dismiss or, in the alternative, for Summary Judgment be granted; (4) the Motion of Merchants Bank, N.A., and Martha Grimes, to Dismiss be granted; (5) the Motion of Richard Swatek to Dismiss be granted; (6) the Plaintiff's Motion for an Order for an Entry of Default as to the Defendant Richard Swatek be denied, as moot; (7) the Plaintiff's Motion for an Order of Entry of Default as to the Defendant Curtis D. Foss be denied, as moot; (8) the Plaintiff's Motions to Appoint a Special Prosecutor be denied; (9) the Plaintiff's Motion to Join Additional Defendants be denied; (10) the Plaintiff's Motion to Remove the Pending State Court Action to Federal District Court be denied; (11) the Plaintiff's Motion for Discovery on Demand for Transfer of the Records of the Ninth Judicial District Court Case Files No. 36-C0-04-124, 36-CX-04-289, 36-C1-04-391, and for the Transcripts of all Hearings Thereon; the Records of Minnesota Appellate Court Case File No. A04-2158, A04-1340, A04-0112 be denied, as moot; (12) the Motion of Merchants' Bank to Dismiss the Counterclaim of Richard Swatek be denied, as moot; (13) the Motion of Richard Swatek for leave to file a Crossclaim against Merchants' Bank be denied, as moot; (14) the Plaintiff's Complaint be dismissed, as to each of the named Defendants; and (15) the Plaintiff be ordered to show cause why sanctions should not be imposed for his misconduct in this action.

The Court has conducted a *de novo* review of the record, including a review of the arguments and submissions of counsel, pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 72.1(c). The factual

background for the above-entitled matter is clearly and precisely set forth in the Report and Recommendation and is incorporated by reference for purposes of Plaintiff's objections.

Based upon the *de novo* review of the record and all of the arguments and submissions of the parties and the Court being otherwise duly advised in the premises, the Court hereby enters the following:

### **ORDER**

1. Plaintiff Alan R. Vaughn's objections (Doc. No. 121) to Chief Magistrate Judge Raymond L. Erickson's Report and Recommendation dated December 7, 2005, are **DENIED**.
2. Chief Magistrate Judge Raymond L. Erickson's Report and Recommendation dated December 7, 2005 (Doc. No. 119), is **ADOPTED**.
3. The Motion of the Defendant Jennifer Hasbargen to Dismiss (Doc. No. 16) is **GRANTED**.
4. The Motions of the Defendants Charles H. LeDuc, Donald J. Aandal, Donna K. Dixon, John P. Smith, and Carol Clausen to Dismiss (Doc. No. 21) is **GRANTED**.
5. The Motion of Defendant Myron Choquette to Dismiss or, in the alternative, for Summary Judgment (Doc. No. 33) is **GRANTED**.
6. The Motion of Merchants Bank, N.A., and Martha Grimes, to Dismiss (Doc. No. 9) is **GRANTED**.
7. The Motion of Richard Swatek to Dismiss (Doc. Nos. 60 and 96) is **GRANTED**.
8. The Plaintiff's Motion for an Order for an Entry of Default as to the Defendant Richard Swatek (Doc. No. 64) is **DENIED, AS MOOT**.

9. The Plaintiff's Motion for an Order of Entry of Default as to the Defendant Curtis D. Foss (Doc. No. 75) is **DENIED, AS MOOT**.

10. The Plaintiff's Motions to Appoint a Special Prosecutor (Doc. Nos. 40, 67, 75, and 102) is **DENIED**.

11. The Plaintiff's Motion to Join Additional Defendants (Doc. Nos. 41 and 102) is **DENIED**.

12. The Plaintiff's Motion to Remove the Pending State Court Action to Federal District Court (Doc. Nos. 41 and 102) is **DENIED**.

13. The Plaintiff's Motion for Discovery on Demand for Transfer of the Records of the Ninth Judicial District Court Case Files No. 36-C0-04-124, 36-CX-04-289, 36-C1-04-391, and for the Transcripts of all Hearings Thereon; the Records of Minnesota Appellate Court Case File No. A04-2158, A04-1340, A04-0112 (Doc. No. 42) is **DENIED, AS MOOT**.

14. The Motion of Merchants' Bank to Dismiss the Counterclaim of Richard Swatek (Doc. No. 29) is **DENIED, AS MOOT**.

15. The Motion of Richard Swatek for leave to file a Crossclaim against Merchants' Bank (Doc. No. 26) is **DENIED, AS MOOT**.

16. The Plaintiff's Complaint is dismissed, as to each of the named Defendants.

17. The Plaintiff is ordered to show cause why sanctions should not be imposed for his misconduct in this action. Pursuant to this paragraph, this matter is respectfully referred to Chief

Magistrate Judge Raymond L. Erickson for the purpose of setting up an order to show cause procedure to address the issue of why sanctions should not be imposed for Plaintiff's conduct in this case.

Dated: January 19, 2006

s/Donovan W. Frank  
DONOVAN W. FRANK  
Judge of United States District Court